

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

CORBET JONES

PLAINTIFF

VERSUS

Civil Action No. 2:22-cv-93-KS-MTP

**JONES COUNTY, MS; SHERIFF JOE
BERLIN; DEPUTY JAMES MANN; SGT.
JESSE JAMES; DEPUTY COLTON
DENNIS; CAROL JOHNSTON;
JANET HENDERSON; AND
DEPUTY MEKEDES COLEMAN,**

DEFENDANTS

**SHERIFF JOE BERLIN AND JENNIFER HENDERSON’S MOTION FOR
JUDGMENT ON THE PLEADINGS BASED ON QUALIFIED IMMUNITY**

Come now Sheriff Joe Berlin and Jennifer Henderson (collectively “Movants”), by and through counsel, and, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, submit their Motion for Judgment on the Pleadings based on Qualified Immunity.

In support of the same, Movants, as required by Rule 7(b)(4) of the Local Uniform Civil Rules of the United States District Courts for the Northern and Southern Districts of Mississippi, are simultaneously filing a memorandum brief setting forth arguments and authorities related to the grounds below for this Court to grant Movants’ Motion, and dismiss Plaintiff’s claims against them.

To the extent applicable and necessary, Movants, pursuant to Rule 12(g)(1) of the Federal Rules of Civil Procedure join this Motion to Jones County, Mississippi, Sheriff Joe Berlin, and Jennifer Henderson’s Motion to Dismiss [58], filed on May 15, 2023.

1. The primary question presented here is whether Plaintiff’s First Amended Complaint sufficiently pleads Sheriff Berlin and Jennifer Henderson, through their own

individual actions, violated the constitution regarding the in-custody death of Andrew Wesley Jones (“Decedent”) on January 9, 2021.

2. Ancillary to the primary question, though no less important, is whether the alleged violations violated a clearly established law at the time of the conduct in question.

3. As demonstrated below, and further explained within Movants’ supporting memorandum of authorities, neither Sheriff Berlin nor Henderson can be individually liable to Plaintiff.

4. The Court must dismiss Plaintiff’s First Amended Complaint against Movants as Plaintiff fails to state claims against Movants upon which relief may be granted.

5. The Court must dismiss Plaintiff’s First Amended Complaint against Movants as Plaintiff cannot establish any constitutional violation by either Sheriff Berlin or Henderson.

6. The Court must dismiss Plaintiff’s claims against Sheriff Berlin and Henderson as they are entitled to qualified immunity, and Plaintiff cannot overcome the same.

7. The Court must dismiss Plaintiff’s claims against Movants because they are shotgun claims found within a shotgun pleading. Thus, Plaintiff’s claims lack the personal involvement and discrete action(s) necessary to support claims for relief pursuant to 42 U.S.C. § 1983.

8. The Court must dismiss Plaintiff’s claims against Movants as Plaintiff never alleges a singular, discrete action claim against either Sheriff Berlin or Henderson as to

how they, independently, violated Decedent's constitutional rights. In other words, Plaintiff never delineates Sheriff Berlin or Henderson's particular conduct, which precludes Plaintiff from maintaining § 1983 claims against them.

9. The Court must dismiss Plaintiff's claims against Movants because the lack of personal-involvement allegations against the individual Movants precludes Plaintiff from satisfying the perquisite to liability on a claim for damages under 42 U.S.C. § 1983.

10. The Court must dismiss Plaintiff's claims against Movants because the claims are so vague and imprecise, they do not satisfy federal pleading standards, and they cannot overcome Movants' qualified immunity.

11. The Court must dismiss Plaintiff's claims against Movants based on Plaintiff's lack of prudential standing to raise Decedent's constitutional claims, *i.e.*, survival-type damages, as set forth in Jones County, Mississippi, Sheriff Joe Berlin, and Jennifer Henderson's Motion to Dismiss [58] and supporting Memorandum [59].

12. The Court must dismiss Plaintiff's claims against Movants based on Plaintiff's lack of Article III standing to raise Decedent's constitutional claims, *i.e.*, survival-type damages, as set forth in Jones County, Mississippi, Sheriff Joe Berlin, and Jennifer Henderson's Motion to Dismiss [58] and supporting Memorandum [59].

WHEREFORE, PREMISES CONSIDERED, based upon the grounds above, which are set forth in greater detail within Sheriff Joe Berlin and Jennifer Henderson's supporting Memorandum of Authorities, Movants respectfully request this Court dismiss Plaintiff's claims against them, with prejudice, based on Movants' retention of qualified immunity.

DATE: May 15, 2023.

Respectfully submitted,

**SHERIFF JOE BERLIN, AND
JENNIFER HENDERSON**

By: /s/Lance W. Martin
One of Their Attorneys

WILLIAM R. ALLEN (MSB #100541)
LANCE W. MARTIN (MSB #105203)
Allen, Allen, Breeland & Allen, PLLC
214 Justice Street
P. O. Box 751
Brookhaven, MS 39602
Tel: 601-833-4361
Fax: 601-833-6647
wallen@aabalegal.com
lmartin@aabalegal.com

CERTIFICATE

I, the undersigned of Allen, Allen, Breeland & Allen, PLLC, one of the attorneys for Defendants Sheriff Joe Berlin and Jennifer Henderson hereby certify that on this day, I filed the foregoing Motion for Judgment on the Pleadings based on Qualified Immunity with the Clerk of the Court using the ECF system, which gave notice of the same to the following:

Robert McDuff, Esq.
The Law Office of Robert McDuff
767 North Congress Street
Jackson, MS 39202
rbm@mcdufflaw.com
Attorneys for Plaintiff

Stephen J. Haedicke-PHV
Law Office of Stephen J. Haedicke, LLC
1040 St. Ferdinand Street
New Orleans, LA 70117
stephen@haedickelaw.com

Bethany A. Tarpley, Esq.
Daniel J. Griffith, Esq.
JACKS | GRIFFITH | LUCIANO, P.A.
P. O. Box 1209
Cleveland, MS 38732
btarpley@jlpalaw.com
dgriffith@jlpalaw.com

*Attorneys for Mann, Sgt. Jesse James,
Deputy Colton Dennis, and Carol Johnston*

Robert J. Dambrino, III (MSB #5783)
Gore, Kilpatrick & Dambrino, PLLC
2000 Gateway Drive
Grenada, MS 38901
rdambrino@gorekilpatrick.com

Attorney for Mekedes Coleman

This, the 15th day of May, 2023.

/s/ Lance W. Martin
OF COUNSEL